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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 901/2017

PRADEEP

..... Petitioner

Through Mr.Ashok Upadhyay and Ms.Renu
Chauhan, Advs.

versus

THE STATE OF NCT OF DELHI & ORS.

..... Respondent

Through Mr.Sanjay Lao, ASC for State with
Mr.Siddarth Sindhu, Adv., Insp. Veer
Singh and SI Ina Kumari, PS Nand
Nagri.
Mr.S.K. Bhardwaj, Adv. for R2 &
R3.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

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23.03.2017

Crl.M.A. 4944/2017 (Exemption)

Application is allowed subject to just exceptions.

Crl.M.C. 901/2017

The petitioner has filed the present petition under Article 226 of the Constitution of India read with Section 482 Cr.P.C. for quashing of FIR No.85/2016, under Sections 363/376 IPC and 14 of the POCSO Act, Police Station Nand Nagri.

As per the FIR, the complainant Dayawati made a complaint to the police that her grand daughter Shivani was missing since 31.12.2015. On the complaint of the complainant, initially the FIR

was registered under Section 363 IPC was registered and thereafter the Sections 376 IPC and 14 POCSO Act were added. The accused was arrested on 08.12.2016.

It has been submitted by the counsel for the petitioner that an application for the grant of bail was moved by the accused which was allowed by the court below vide order dated 21.12.2016. The ground taken by the petitioner for quashing of the FIR in question is that during the hearing of the bail application, the prosecutrix had given the consent that the accused never kidnapped her or committed rape upon her. Such a ground taken by the petitioner is not acceptable.

It is an admitted case that the prosecutrix was minor at the time of alleged kidnapping and commission of rape upon her and that is the reason, Section 14 of the POCSO Act was added. Definitely, the victim in the present case is a minor girl, so there cannot be any case of giving consent by a minor. More the reason, the order passed in the bail application cannot be a ground for quashing the FIR in question.

In view of the above mentioned facts and circumstances, the present petition is dismissed.

P.S.TEJI, J

MARCH 23, 2017
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